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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

DA 94 -1118

DISPATCHED BY
In the Matter of

**AT&T Communications
Tariff F.C.C. Nos. 9 and 11**

)
) **CC Docket No. 94 - 120**
)
) **Transmittal No. 6788**

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: October 7, 1994 ; Released: October 7 , 1994

By the Chief, Common Carrier Bureau:

I. INTRODUCTION and BACKGROUND

1. On February 17, 1994, AT&T Communications (AT&T) filed Transmittal No. 6788, by which AT&T proposed to amend its private line Tariff F.C.C. Nos. 9 and 11 to introduce "Feature Group A (FGA) and Feature Group B (FGB) Connections which provide the physical connection between a Local Exchange Company End Office Switch and the AT&T Central Office, for connection to AT&T Private Line Services." AT&T proposed to apply a single FGA (or FGB) charge to each FGA (or FGB) service it connects.¹

2. In Transmittal 6788, AT&T proposed to resell the trunking facilities linking the AT&T Point of Presence (POP) to the LEC switch at which a Feature Group A or B customer's private line terminates in conjunction with the interexchange private line portion of Feature Group A and B access service that AT&T already provides.² Transmittal 6788 defines a Feature

¹ Feature Group A service, among other things, allows callers to contact the subscriber to this service outside their local calling area without paying toll charges to either the interexchange carrier or to the LEC. For ease of discussion, we will refer primarily to Feature Group A service, although the same principles apply to Feature Group B service. For a detailed discussion of Feature Group A and B service, refer to the Suspension Order at paras. 2-5.

² These trunking facilities are accounted for in the entrance facility and direct trunked transport rate elements. See Transport Rates Structure and Pricing, 7 FCC Rcd 7006 (1992)(Transport Order); recon., 8 FCC Rcd 5370 (1993)(First Reconsideration Order); further recon., 8 FCC Rcd 6233 (1993); further recon. pending (collectively, Transport Orders).

Group A connection as a transmission path between the line side of a local exchange carrier (LEC) end office switch and the AT&T POP for connection to AT&T private line services. Transmittal 6788 states that a Feature Group A connection provides line side access to a LEC end office switch, with an associated seven digit local telephone number, for an AT&T customer's use in originating and terminating calls. Similarly, Transmittal 6788 defines a Feature Group B connection as the transmission path between the trunk side of a LEC end office switch and the AT&T POP for connection to AT&T private line services. It further provides that the Feature Group B connection offers trunk side access to a LEC end office switch, with an associated uniform 950-XXXX access code, for AT&T end user customers' use in originating and terminating calls. Finally, Transmittal 6788 requires both Feature Group A and B customers to purchase an access coordination function, which authorizes AT&T to design, order, install, and perform other provisioning activities for the end user.³

3. On August 12, 1994, the Common Carrier Bureau adopted an order suspending Transmittal 6788 for five months and requiring AT&T to keep accurate account of all amounts received pursuant to the service under its tariff transmittal.⁴ The Suspension Order also initiated an investigation to determine the reasonableness of the tariff revisions described in Transmittal 6788. By this Order, we designate the specific issues to be examined in this investigation, and establish schedules and procedures for the filing of the pleadings.

4. The purpose of this investigation is to determine whether AT&T's offering of Feature Group A and B connection service under Transmittal 6788 constitutes an unreasonable practice in violation of Section 201(b) of the Communications Act of 1934, 47 U.S.C. § 201(b). We are particularly concerned that end user customers of LEC Feature Group A or B access service might be billed under the AT&T tariff for the access portion of their service⁵ even if they have not ordered that portion of their service from AT&T. We are also concerned that AT&T proposes to resell the local transport entrance facility and direct trunked transport rate elements on a bundled basis.⁶

³ See AT&T Tariff F.C.C. No. 11, Sections 8.2.8 and 8.2.9.

⁴ AT&T Communications Tariff F.C.C. Nos. 9 and 11, Transmittal No. 6788, DA 94 - 889, rel. Aug. 12, 1994 (Com. Car. Bur.)(Suspension Order).

⁵ Access service is comprised of the customer line, or loop, the end office switch, and transport to the IXC POP.

⁶ Under the local transport restructure, the LECs are required to provide these rate elements on an unbundled basis, so that customers may choose alternative suppliers for portions of access service as their needs dictate. See Transport Order, 7 FCC Rcd at 7016-17. In discussions with Tariff Division staff, AT&T indicated its unwillingness to provide these elements on an unbundled basis.

II. ISSUES DESIGNATED FOR INVESTIGATION

5. We designate the following issues for investigation:

Issue 1: Is it reasonable for AT&T to bill an end user customer for Feature Group A or B connection service when an end user has not affirmatively ordered this service from AT&T?

1. AT&T should explain how the end user becomes an AT&T customer for Feature Group A or B connection service. AT&T's response should include the following information:

a. Prior to the local transport restructure, who was the LEC's customer of record for each access rate element of Feature Group A and B service? If AT&T ordered Feature Group A or B service from the LEC as agent for the end user customer, was AT&T or the end user designated the customer of record? Who did the LEC bill for the Feature Group A or B service charges? Was AT&T or the end user responsible for payment of the Feature Group A and B charges assessed by the LECs? If AT&T was the LEC's designated customer of record, under what tariff did it provide the Feature Group A or B access service to the end user and what charges did AT&T assess end user customers? How does AT&T's provision of Feature Group A and B service comply with Section 203 of the Act when AT&T: (1) acts as the end user's agent, or (2) is designated customer of record by the LEC?

b. AT&T should indicate whether it or the LECs notified end user customers of any changes in either their status as customers or in the billing of Feature Group A and B service since the transport restructure occurred. AT&T should also describe how end users who are the LECs' customers of record for LEC access service were converted to customers of AT&T service. AT&T should provide an example of the notices provided.

2. AT&T should explain how an end user customer can either affirmatively order, or decline to receive, Feature Group A or B service from AT&T if the customer desires to continue receiving either the entrance facility or direct trunked transport rate elements from the LECs. AT&T's response should include the following information:

Does AT&T intend to charge Feature Group A and B end user customers for the service if they have not affirmatively ordered AT&T's connection service nor actively consented to take service from AT&T instead of the LECs?

Issue 2: Is AT&T's practice of bundling the Access Coordination Function with Feature Group A and B Connection Service reasonable?

1. How will AT&T's provision of the access coordination function differ under Transmittal 6788 from the coordination service it has previously provided for voice grade special access service? If coordinated service, as distinct from end-to-end service, is not to be provided in connection with Feature Group A and B connection service, explain why this practice does not unreasonably restrict customers from taking a portion of their Feature Group A or B access service from the LECs.
2. If the end user customer does not take AT&T's Feature Group A or Feature Group B Connection Service, can that customer continue to receive Feature Group A or B access service from the LECs using a voice grade connection or must the customer purchase a high capacity facility and incur charges over and above the voice grade rates?
3. Who determines the level of the network interface (e.g., voice grade, DS-1, or DS-3) at an AT&T POP?
4. If AT&T requires the facilities used to provide Feature Group A or B service to connect at a high capacity interface at AT&T's POP, how will end users be able to use a LEC's voice grade transport and entrance facilities to enter AT&T's POP? Should AT&T, the LEC, or both provide the multiplexing necessary to meet AT&T's interface requirements? Should AT&T, the LEC, or both provide a customer with voice grade transport from the end office to the IXC POP?

Issue 3: Is AT&T's practice of bundling the entrance facility and direct trunked transport rate elements together reasonable?

AT&T should explain why it has bundled these two transport rate elements in its Feature Group A and Feature Group B connection service. If AT&T maintains that it cannot offer this connection service on an unbundled basis, AT&T should state the reasons why it cannot do so and why it is not unreasonable to restrict end user customers' ability to take the unbundled transport rate elements, including usage-based transport, to the entrance facility of the AT&T POP.

Issue 4: Are the terms and conditions of service provided under Transmittal 6788 reasonable?

Is the existing Feature Group A and B traffic transported on facilities used to provide both special and switched access, or on facilities used to provide other switched access services? Does AT&T or the LEC determine the facilities over which the traffic travels? Does AT&T or the LEC control the assignment of circuits on these entrance facilities terminating at AT&T's POP? If AT&T controls this function, how can the Feature Group A or B end user remove its traffic from those entrance facilities to avoid being charged by AT&T for its use of the entrance facilities?

Issue 5: Are the charges proposed to be included in Tariffs 9 and 11 pursuant to Transmittal 6788 reasonable?

1. AT&T should provide an example of how it derived the nonrecurring and recurring charges it proposes to assess. In addition, AT&T should describe in detail the actual costs that are reflected in the nonrecurring and recurring charges, and the source of those costs. This description should include the cost of the actual high capacity facilities used for Feature Group A or B service -- not the full voice grade charges.
2. AT&T should explain why a non-recurring charge is included in the rates for the connection service it proposes, and explain how it derived the non-recurring charge it proposes to assess.
3. Because the end user customers for this service are current LEC customers and because they currently appear to have in place the facility for Feature Group A and B service, AT&T should explain why it is not unreasonable to fail to exempt these customers from its nonrecurring charge.

Issue 6: Is AT&T's practice of charging Feature Group A and B end users for Feature Group A and B connection service reasonable in areas where LECs currently offer split billing arrangements?

1. Describe currently available LEC split billing or other methods of LEC billing end user customers directly for the customer's portion of the high capacity facilities used.
2. AT&T should discuss whether the current forms of split billing are reasonable. AT&T should also indicate whether these arrangements or some other form of split billing would solve the Feature Group A and B billing problem from the point of view of the end user customer and from AT&T's point of view.
3. To the extent split billing is available, AT&T should explain why it has failed to consider using that or other billing options so that end users can be billed only for the portion of the high capacity facilities used to transport their voice grade Feature Group A and B service to AT&T's POP. AT&T should also explain why, in light of the existence of these split billing options, AT&T's practice of billing the Feature Group A and B end users under Transmittal 6788 is not unreasonable under Section 201(b) of the Act.
4. Could AT&T use the mechanism in Tariff 11, Section 3.3.6, "Arrangement for LEC Use of Existing High Capacity Access" provided to AT&T, to recover from the LEC for LEC use of AT&T high capacity facilities to transport Feature Group A and B traffic to the AT&T POP?

III. PROCEDURAL REQUIREMENTS

A. Filing Schedules

6. This investigation will be conducted as a notice and comment proceeding. CC Docket No. 94-120 has been assigned for this purpose. We designate AT&T as a party to this investigation. AT&T shall file its direct case no later than 14 days after the release date of this Order. In its direct case, AT&T must respond to all the issues designated in this Order. Moreover, the direct case must supply all information upon which AT&T relies to support its position. Pleadings responsive to the direct case may be filed no later than 7 days after direct case is filed, and must be captioned "Opposition to Direct Case" or "Comments on Direct Case." AT&T may file a "rebuttal" to oppositions or comments no later than 7 days after oppositions are filed.

7. An original and seven copies of all pleadings shall be filed with the Secretary of the Commission. In addition, one copy shall be delivered to the Commission's commercial copying firm, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Also, one copy shall be delivered to the Tariff Division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. These comments should specify the docket number of this investigation.

8. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information is in writing and is placed in the public file or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of reliance on such information is noted in the Order.

B. Ex Parte Requirements

9. For the purposes of this non-restricted notice and comment proceeding, members of the public are advised that ex parte contacts (i.e., written or oral communications which address the procedural or substantive merits of the proceeding which are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until a final Order is released and after the final Order is issued. Written ex parte contacts must be filed on the day submitted with the Secretary and Commission employees receiving each presentation. For other requirements, see generally Section 1.1200 et seq. of the Commission's Rules, 47 C.F.R. § 1.200 et seq.

C. Paperwork Reduction Act

10. The investigation established in this Order has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, or recordkeeping, labeling, disclosure or other record retention requirements as contemplated under the statute. See 44 U.S.C. § 3502(4)(A).

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 4(j), 201(a), 201(b), 202(a), 204(a), 205(a) and 403 of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 154(j), 201(a), 201(b), 202(a), 204(a), 205(a) and 403, and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

12. IT IS FURTHER ORDERED that AT&T Communications, Inc. SHALL BE a party to this proceeding.

13. IT IS FURTHER ORDERED that AT&T Communications, Inc. SHALL INCLUDE a response to each item of information requested in this Order.

14. IT IS FURTHER ORDERED that this Order shall become effective on the date of its adoption.

FEDERAL COMMUNICATIONS COMMISSION



Kathleen M.H. Wallman
Chief, Common Carrier Bureau